M.R. 3140

IN THE
SUPREME COURT
OF
THE STATE OF ILLINOIS

Order entered September 15, 2017.

(Deleted material is struck through, and new material is underscored.)

Effective November 1, 2017, Illinois Supreme Court Rules 303A, 306, 307, 315, 341, and 367 are amended, as follows.

Amended Rule 303A

Rule 303A. Expedited and Confidential Proceedings Under the Parental Notification of Abortion Act

(a) Entry of Judgment in the Circuit Court. Upon the filing of a petition in the circuit court for judicial waiver of notice under the Parental Notification of Abortion Act, the circuit court shall rule and issue written findings of fact and conclusions of law within 48 hours of the time that the petition is filed with weekends and holidays excluded, except that the 48-hour limitation may be extended at the request of the minor or incompetent person. The court shall endeavor to rule at the conclusion of any hearing on the petition, but in any event shall rule within 48 hours of the filing of the petition, weekends and holidays excluded, except that the time period for ruling may be extended at the request of the minor or the incompetent person. If the decision is not rendered immediately following a hearing, then the petitioner shall be responsible for contacting the clerk of the court for notification of the decision. All notifications pursuant to this procedure may be informal and shall be confidential. If the court fails to rule within the 48-hour period and an extension is not requested, then the petition shall be deemed to have been granted and the notice requirement shall be waived. A decision denying a judicial waiver of notice is a final and appealable order, which is appealable in the manner provided in the following paragraphs of this rule.

(b) Review to the Appellate Court as a Matter of Right. In accordance with the provisions of this rule, a minor or incompetent person shall be entitled to an appeal to the Appellate Court as a matter of right when the circuit court denies her a waiver of notice under the Parental Notification of Abortion Act.

(c) Review in the Appellate Court. Review of the denial of a waiver of notice under the Parental Notice of Abortion Act shall be by petition filed in the Appellate Court. The petition shall state the relief requested and the grounds for the relief requested and be filed within two days, weekends and holidays excluded, of entry of the denial from which review is being sought, except that the two-day period may be extended at the request of the minor or incompetent person. An appropriate supporting record shall accompany the petition, including a record of proceedings, the petition filed in the circuit court, the decision of the circuit court, including the

specific findings of fact and legal conclusions supporting the decision, and any other supporting documents or matters of record necessary to the petition. The supporting record must be authenticated by the certificate of the circuit court clerk or by the affidavit of the attorney or party filing it.

(d) Appointment of Counsel. The Appellate Court shall appoint counsel to assist the petitioner if she so requests.

(e) Statement of Facts and Memoranda of Law. The minor or incompetent petitioner may file a brief statement of facts and memorandum of law supporting her petition, which together shall not exceed 15 pages or, alternatively, 4,500 words and which also must be filed within two days, excluding weekends and holidays, of the entry of the order being appealed under paragraph (a) of this Rule.

(f) Confidentiality. All proceedings under this rule shall be confidential. The petitioner shall be identified in the petition and any supporting memorandum in the method provided under Rule 660(c), as in appeals in cases arising under the Juvenile Court Act. Alternatively, the petitioner may use a pseudonym if she so requests. All documents relating to proceedings shall be impounded and sealed subject to review only by the minor, her attorney and guardian *ad litem*, the respective judges and their staffs charged with reviewing the case and the respective court clerks and their staffs. After entry of an order by the Appellate Court, the clerk of the Appellate Court shall review the proceedings. If leave to appeal is not sought by the petitioner, the clerk of the Appellate Court shall seal the record on appeal before returning it to the clerk of the circuit court. Any appellate court file shall also be sealed. If leave to appeal to the Supreme Court is sought, the petition for leave to appeal and all supporting documents shall identify the petitioner in manner provided under Rule 660(c). The file in the Supreme Court shall also be sealed and impounded following the decision of the Supreme Court. All notifications of court rulings under this rule may be informal and shall be confidential.

(g) Time for Decision; No Oral Argument. After the petitioner has filed the petition for review in the Appellate Court, along with a supporting record and any memorandum, the Appellate Court shall consider, decide the petition and issue a confidential order within three days, excluding weekends and holidays. The petitioner shall be responsible for contacting the clerk of the Appellate Court for notification of the decision. Oral argument on the petition will not be heard.

(h) Supreme Court Review. If the Appellate Court affirms the denial of a waiver of notice, the petitioner may file a petition for leave to appeal with the Supreme Court within two days, excluding weekends and holidays, of the Appellate Court's decision to affirm the denial of a waiver of notice, except that the two-day period may be extended at the request of the minor or incompetent person. The petition for leave to appeal to the Supreme Court shall contain (1) a statement of issues presented for review and how those issues were decided by the circuit and appellate courts, (2) a brief statement explaining the reason for appeal to the Supreme Court, (3) any memorandum and statement of facts presented to the appellate court, and (4) the written orders of the circuit and appellate courts. The Supreme Court shall decide whether to allow leave to appeal within three days, excluding weekends and holidays, of the filing of the leave to appeal. In deciding whether to allow leave to appeal, the Supreme Court's discretion shall be guided by the criteria listed in Rule 315(a). The confidentiality of the proceedings shall be

maintained in the manner described in paragraph (f) of this rule. If leave to appeal is allowed, the petitioner must then file the record from the proceedings in the circuit court with the clerk of the Supreme Court within two days, excluding weekends and holidays, of the date that leave to appeal is allowed, except that the two day period may be extended at the request of the minor or incompetent person. Oral argument in the case will not be heard. The Supreme Court shall then issue a confidential written decision within five days, excluding weekends and holidays, of the date it allowed the petition for leave to appeal. The Supreme Court shall render its decision based on the record from the circuit court, and the petition for leave to appeal and any supporting documentation filed in conjunction with the petition for leave to appeal. The petitioner shall be responsible for contacting the clerk of the Supreme Court for notification of any decisions made by the Supreme Court on either the petition for leave to appeal or the ultimate disposition of the case by the Supreme Court. All notifications of court rulings under this rule may be informal and shall be confidential.

Adopted September 20, 2006, effective immediately; amended June 22, 2017, eff. July 1, 2017; amended Sept. 15, 2017, eff. Nov. 1, 2017.

Amended Rule 306

Rule 306. Interlocutory Appeals by Permission

(a) Orders Appealable by Petition. A party may petition for leave to appeal to the Appellate Court from the following orders of the trial court:

(1) from an order of the circuit court granting a new trial;

(2) from an order of the circuit court allowing or denying a motion to dismiss on the grounds of *forum non conveniens*, or from an order of the circuit court allowing or denying a motion to transfer a case to another county within this State on such grounds;

(3) from an order of the circuit court denying a motion to dismiss on the grounds that the defendant has done nothing which would subject defendant to the jurisdiction of the Illinois courts;

(4) from an order of the circuit court granting or denying a motion for a transfer of venue based on the assertion that the defendant is not a resident of the county in which the action was commenced, and no other legitimate basis for venue in that county has been offered by the plaintiff;

(5) from interlocutory orders affecting the care and custody of or the allocation of parental responsibilities for unemancipated minors or the relocation (formerly known as removal) of unemancipated minors, if the appeal of such orders is not otherwise specifically provided for elsewhere in these rules;

(6) from an order of the circuit court which remands the proceeding for a hearing *de novo* before an administrative agency;

(7) from an order of the circuit court granting a motion to disqualify the attorney for any party;

(8) from an order of the circuit court denying or granting certification of a class action

under section 2–802 of the Code of Civil Procedure (735 ILCS 5/2-802); or

(9) from an order of the circuit court denying a motion to dispose under the Citizen Participation Act (735 ILCS 110/1 *et seq.*)

If the petition for leave to appeal an order granting a new trial is granted, all rulings of the trial court on the posttrial motions are before the reviewing court without the necessity of a cross-petition.

(b) Procedure for Petitions Under Subparagraph (a)(5).

(1) *Petition; Service; Record.* Unless another form is ordered by the Appellate Court, review of an order affecting the care and custody of or the allocation of parental responsibilities for an unemancipated minor or the relocation of unemancipated minors as authorized in paragraph (a)(5) shall be by petition filed in the Appellate Court. The petition shall state the relief requested and the grounds for the relief requested. An appropriate supporting record shall accompany the petition, which shall include the order appealed from or the proposed order, and any supporting documents or matters of record necessary to the petition. The supporting record must be authenticated by the certificate of the clerk of the trial court or by the affidavit of the attorney or party filing it. The petition, supporting record and the petitioner's legal memorandum, if any, shall be filed in the Appellate Court within 14 days of the entry or denial of the order from which review is being sought, with proof of personal or e-mail service as provided in Rule 11. The petition for leave to appeal must also be served upon the trial court judge who entered the order from which leave to appeal is sought.

(2) *Legal Memoranda.* With the petition, the petitioner may file a memorandum, not exceeding 15 pages or, alternatively, 4,500 words. The respondent or any other party or person entitled to be heard in the case may file, with proof of personal or e-mail service as provided in Rule 11, a responding memorandum within five business days following service of the petition and petitioner's memorandum. A memorandum by the respondent or other party may not exceed 15 pages or, alternatively, 4,500 words.

(3) *Replies; Extensions of Time.* Except by order of court, no replies will be allowed and no extension of time will be allowed.

(4) *Variations by Order of Court.* The Appellate Court may, if it deems it appropriate, order a different schedule, or order that no memoranda be filed, or order that other materials need not be filed.

(5) *Procedure if Leave to Appeal Is Granted.* If leave to appeal is granted, the circuit court and the opposing parties shall be served with the order granting leave to appeal. All proceedings shall then be subject to the expedited procedures set forth in Rule 311(a). A party may allow his or her petition or answer to stand as his or her brief or may elect to file a new brief. In order to allow a petition or answer to stand as a brief, the party must notify the other parties and the ~~C~~clerk of the Appellate Court on or before the due date of the brief.

(c) Procedure for All Other Petitions Under This Rule.

(1) *Petition.* The petition shall contain a statement of the facts of the case, supported by reference to the supporting record, and of the grounds for the appeal. The petition shall be filed in the Appellate Court in accordance with the requirements for briefs within 30 days

after the entry of the order. A supporting record conforming to the requirements of Rule 328 shall be filed with the petition.

(2) *Answer.* Any other party may file an answer within 21 days of the filing of the petition, together with a supplementary supporting record conforming to Rule 328 consisting of any additional parts of the record the party desires to have considered by the Appellate Court. No reply will be received except by leave of court or a judge thereof.

(3) *Appendix to Petition.* The petition shall include, as an appendix, the order appealed from, and any opinion, memorandum, or findings of fact entered by the trial judge, and a table of contents of the record on appeal in the form provided in Rule 342(a).

(4) *Extensions of Time.* The above time limits may be extended by the reviewing court or a judge thereof upon notice and motion, accompanied by an affidavit showing good cause, filed before expiration of the original or extended time.

(5) *Stay; Notice of Allowance of Petition.* If the petition is granted, the proceedings in the trial court are stayed. Upon good cause shown, the Appellate Court or a judge thereof may vacate or modify the stay, and may require the petitioner to file an appropriate bond. Within 48 hours after the granting of the petition, the ~~a~~Appellate ~~e~~Court clerk shall notify the clerk of the circuit court.

(6) *Additional Record.* If leave to appeal is allowed, any party to the appeal may request that additional portions of the record on appeal be prepared as provided in Rule 321 *et seq.*, or the court may order the appellant to file the record, which shall be filed within 35 days of the date on which such leave was allowed. The filing of an additional record shall not affect the time for filing briefs under this rule.

(7) *Briefs.* A party may allow his or her petition or answer to stand as his or her brief or may file a brief in lieu of or in addition thereto. If a party elects to allow a petition or answer to stand as a brief, he or she must notify the other parties and the ~~C~~clerk of the Appellate Court on or before the due date of the brief. If the appellant elects to file a brief, it must be filed within 35 days from the date on which leave to appeal was granted. All briefs shall conform to the schedule and requirements as provided in Rules 341 through 343. Oral argument may be requested as provided in Rule 352(a).

Amended October 21, 1969, effective January 1, 1970, and amended effective September 1, 1974; amended July 30, 1979, effective October 15, 1979; amended February 19, 1982, effective April 1, 1982; amended May 28, 1982, effective July 1, 1982; amended June 15, 1982, effective July 1, 1982; amended August 9, 1983, effective October 1, 1983; amended September 16, 1983, effective October 1, 1983; amended December 17, 1993, effective February 1, 1994; amended March 26, 1996, effective immediately; amended December 31, 2002, effective January 1, 2003; amended December 5, 2003, effective January 1, 2004; amended May 24, 2006, effective September 1, 2006; amended February 26, 2010, effective immediately; amended February 16, 2011, effective immediately; amended May 29, 2014, eff. July 1, 2014; amended Dec. 9, 2015, eff. Jan. 1, 2016; amended Mar. 8, 2016, eff. immediately; amended June 22, 2017, eff. July 1, 2017; amended June 28, 2017, eff. July 1, 2017; amended Sept. 15, 2017, eff. Nov. 1, 2017.

Committee Comment

(March 8, 2016)

Special Supreme Court Committee on Child Custody Issues

The Illinois Marriage and Dissolution of Marriage Act, Pub. Act 99-90 (eff. Jan. 1, 2016) (amending 750 ILCS 5/101 *et seq.*), has changed the terms "Custody," "Visitation" (as to parents) and "Removal" to "Allocation of Parental Responsibilities," "Parenting Time" and "Relocation." These rules are being amended to reflect those changes. The rules utilize both "custody" and "allocation of parental responsibilities" in recognition that some legislative enactments covered by the rules utilize the term "custody" while the Illinois Marriage and Dissolution of Marriage Act and the Illinois Parentage Act of 2015 utilize the term "allocation of parental responsibilities." The Special Committee has attempted to adhere to the usage found in the applicable legislative enactments.

Committee Comment
(May 29, 2014)

Subparagraph (c)(5)

In exceptional circumstances or by agreement of the parties, it may be appropriate for the parties to continue with certain aspects of the case (such as discovery, for example), provided that such continuation does not interfere with appellate review or otherwise offend the notions of substantial justice. If the stay is vacated or modified, the trial court remains (as with any interlocutory appeal) restrained from entering an order which interferes with the appellate review, such as modifying the trial court order that is the subject of the appeal.

Committee Comments
(February 26, 2010)

In 2010, this rule was reorganized and renumbered for the sake of clarity. No substantive changes were made in this revision.

Paragraph (b)

Paragraph (b) was added to Rule 306 in 2004 to provide a special, expedited procedure to be followed in petitioning for leave to appeal from interlocutory orders affecting the care and custody of unemancipated minors. This procedure applies only to petitions for leave to appeal filed pursuant to subparagraph (a)(5) of this rule. The goal of this special procedure is to provide a faster means for achieving permanency for not only abused or neglected children, but also children whose custody is at issue in dissolution of marriage, adoption, and other proceedings.

Paragraph (c)

Paragraph (c) sets forth the procedures to be followed in petitioning for leave to appeal pursuant to any subparagraph of paragraph (a) except subparagraph (a)(5).

Subparagraph (c)(1)

This subparagraph was amended in 1979 to reflect changes in Rule 321 that eliminated the requirement that a praecipe for the record be filed.

Subparagraph (c)(2)

Subparagraph (c)(2) permits answers to the petition to be filed within 21 days after the due date of the petition instead of "within 15 days after the petition is served upon him." They are not required to be printed as formerly, but may also be otherwise duplicated as are briefs. Former Rule 30 was silent as to a reply. Subparagraph (c)(2) provides that there shall be no reply except by leave.

Subparagraph (c)(3)

As originally promulgated, and as amended in 1974, this subparagraph provided that "excerpts from record" or an abstract should be filed. This represented a change from former Rule 30, which required the filing of a printed abstract of record. It was amended in 1979 to delete reference to "excerpts from record" to reflect the changes made in that year to provide for the hearing of most appeals on the original record, thus dispensing with the reproduction of "excerpts" from the record, and with an abstract as well, unless the court orders that one must be prepared. See the committee comments to Rule 342.

Subparagraph (c)(4)

Subparagraph (c)(4) is a general provision for extensions of time and does not change the practice in existence at the time of the adoption of the rule. In 1982, this subparagraph was reworded but not changed in substance.

Subparagraph (c)(5)

Subparagraph (c)(5) provides that the granting of the appeal from an order allowing a new trial *ipso facto* operates as a stay. The former rule required the giving of some kind of a bond to make a stay effective. A bond is not always appropriate. Subparagraph (c)(5) requires a bond only after a showing of good cause.

Subparagraph (c)(6)

As originally adopted Rule 343 provided that in cases in which a reviewing court grants leave to appeal, or allows an appeal as a matter of right, the appellant must file his brief within 35 days of the order allowing the appeal, and that in cases in which a party allows his petition for leave to appeal or his answer to such a petition to stand as his brief, he must notify the other parties and the clerk of the reviewing court. These provisions were applicable to all cases in which leave to appeal was required, whether to the Appellate Court or the Supreme Court. Rules 306(c)(6), 308(d), and 315(g) provided for the briefing schedule by cross-reference to Rule 343. In 1974, Rule 315(g), dealing with briefs in appeals to the Supreme Court from the Appellate Court, was amended to provide in detail for the filing of briefs, leaving the general language in

Rule 343(a) relating to the filing of the appellant's brief in cases taken on motion for leave to appeal applicable only to appeals under Rules 306 and 308, and the provision for notice of intention to let the petition or answer stand as a brief applicable only to appeals under Rule 306. In the interest of clarity these provisions were placed in Rules 306(c)(6) and 308(d) and the general language deleted from Rule 343(a). This represents no change in practice. The briefing schedule after the due date of the appellant's brief (35 days for the appellee's brief and 14 days for a reply brief) remains governed by Rule 343(a).

Subparagraph (c)(7)

Former Rule 30 provided that after allowance of the appeal and the filing of the stay bond, "The case is then pending on appeal." This obvious fact was omitted from Rule 306 as unnecessary. Subparagraph (c)(7) does provide that if the appeal is granted oral argument may be requested as provided in Rule 352.

Committee Comments
(Revised September 1983)

This rule replaced former Rule 30, which was in effect from January 1, 1964, to December 31, 1966, and which in turn was derived from former section 77(2) of the Civil Practice Act, repealed effective January 1, 1964 (Laws of 1963, p. 2691, § 2). The Judicial Article of the new Illinois constitution (art. VI, § 6) contains substantially the same language on interlocutory appeals that appeared in the 1964 Judicial Amendment, and authorizes this rule in the following language:

"The Supreme Court may provide by rule for appeals to the Appellate Court from other than final judgments of the Circuit Courts."

Paragraph (a)

Paragraph (a), as originally adopted, made no change in the prior rule except to permit the petition to be duplicated in the same manner as a brief (see Rule 344) instead of always being printed. The petition is to be filed within 30 days, subject to an extension of time under paragraph (e).

Paragraph (a) was amended in 1969 by adding subparagraph (2), denominating as subparagraph (1) what was formerly entire paragraph (a), and making appropriate changes in the headings. Subparagraph (2), together with Rule 366(b)(2)(v), also added in 1969, abrogates the ruling in *Keen v. Davis*, 108 Ill. App. 2d 55, 63-64 (5th Dist. 1969), denying reviewability, on appeal from an order allowing a new trial, of questions raised by other rulings of the trial court on the post-trial motion. Revised Rule 366(b)(2)(v) makes it clear that the absence of a final judgment is not a bar to review of all the rulings of the trial court on the post-trial motions. See the Committee Comments to that rule.

In 1982, paragraph (a)(1) was amended by adding subparagraphs (i), (ii), (iii), and (iv), expanding the instances in which appeals could be sought in the appellate court. Also in 1982, subparagraph (a)(2) was amended to make it clear that post-trial motions are before the reviewing court without the necessity of filing a cross-appeal only when the appellate court has

granted a petition for leave to appeal an order granting a new trial.

In 1983, paragraph (a)(1)(ii) was amended to permit a party to seek leave to appeal from a circuit court order allowing or denying a motion to transfer a case to another county within Illinois on the grounds of *forum non conveniens.* See *Torres v. Walsh* (1983), 97 Ill. 2d 338; *Mesa v. Chicago & North Western Transportation Co.* (1933), 97 Ill. 2d 356.

Paragraph (b)

Paragraph (b) was amended in 1979 to reflect changes in Rule 321 that eliminated the requirement that a praecipe for record be filed.

Paragraph (c)

Paragraph (c) permits answers to the petition to be filed within 21 days after the due date of the petition instead of "within 15 days after the petition is served upon him." They are not required to be printed as formerly, but may also be otherwise duplicated as are briefs. Former Rule 30 was silent as to a reply. Paragraph (c) provides that there shall be no reply except by leave.

Paragraph (d)

As originally promulgated, and as amended in 1974, paragraph (d) provided that "excerpts from record" or an abstract should be filed. This represented a change from former Rule 30, which required the filing of a printed abstract of record. It was amended in 1979 to delete reference to "excerpts from record" to reflect the changes made in that year to provide for the hearing of most appeals on the original record, thus dispensing with the reproduction of "excerpts" from the record, and with an abstract as well, unless the court orders that one must be prepared. See the committee comments to Rule 342.

Paragraph (e)

Paragraph (e) is a general provision for extensions of time and does not change the practice in existence at the time of the adoption of the rule. In 1982, this paragraph was reworded but not changed in substance.

Paragraph (f)

Paragraph (f) provides that the granting of the appeal from an order allowing a new trial *ipso facto* operates as a stay. The former rule required the giving of some kind of a bond to make a stay effective. A bond is not always appropriate. Paragraph (f) requires a bond only after a showing of good cause.

Paragraph (g)

As originally adopted Rule 343 provided that in cases in which a reviewing court grants leave to appeal, or allows an appeal as a matter of right, the appellant must file his brief within

35 days of the order allowing the appeal, and that in cases in which a party allows his petition for leave to appeal or his answer to such a petition to stand as his brief, he must notify the other parties and the clerk of the reviewing court. These provisions were applicable to all cases in which leave to appeal was required, whether to the Appellate Court or the Supreme Court. Rules 306(g), 308(d), and 315(g) provided for the briefing schedule by cross-reference to Rule 343. In 1974, Rule 315(g), dealing with briefs in appeals to the Supreme Court from the Appellate Court, was amended to provide in detail for the filing of briefs, leaving the general language in Rule 343(a) relating to the filing of the appellant's brief in cases taken on motion for leave to appeal applicable only to appeals under Rules 306 and 308, and the provision for notice of intention to let the petition or answer stand as a brief applicable only to appeals under Rule 306. In the interest of clarity these provisions were placed in Rules 306(g) and 308(d) and the general language deleted from Rule 343(a). This represents no change in practice. The briefing schedule after the due date of the appellant's brief (35 days for the appellee's brief and 14 days for a reply brief) remains governed by Rule 343(a).

Paragraph (h)

Former Rule 30 provided that after allowance of the appeal and the filing of the stay bond, "The case is then pending on appeal." This obvious fact was omitted from Rule 306 as unnecessary. Paragraph (h) does provide that if the appeal is granted oral argument may be requested as provided in Rule 352.

Amended Rule 307

Rule 307. Interlocutory Appeals as of Right

(a) Orders Appealable; Time. An appeal may be taken to the Appellate Court from an interlocutory order of court:

(1) granting, modifying, refusing, dissolving, or refusing to dissolve or modify an injunction;

(2) appointing or refusing to appoint a receiver or sequestrator;

(3) giving or refusing to give other or further powers or property to a receiver or sequestrator already appointed;

(4) placing or refusing to place a mortgagee in possession of mortgaged premises;

(5) appointing or refusing to appoint a receiver, liquidator, rehabilitator, or other similar officer for a bank, savings and loan association, currency exchange, insurance company, or other financial institution, or granting or refusing to grant custody of the institution or requiring turnover of any of its assets;

(6) terminating parental rights or granting, denying or revoking temporary commitment in adoption proceedings commenced pursuant to section 5 of the Adoption Act (750 ILCS 50/5);

(7) determining issues raised in proceedings to exercise the right of eminent domain under section 20-5-10 of the Eminent Domain Act, but the procedure for appeal and stay shall be as provided in that section.

Except as provided in paragraphs (b) and (d), the appeal must be perfected within 30 days from the entry of the interlocutory order by filing a notice of appeal designated "Notice of Interlocutory Appeal" conforming substantially to the notice of appeal in other cases. A Rule 328 supporting record must be filed in the Appellate Court within the same 30 days unless the time for filing the Rule 328 supporting record is extended by the Appellate Court or any judge thereof. A Rule 328 supporting record shall not be filed in cases arising under the Juvenile Court Act where an order terminating parental rights has been entered. In those cases, a Rule 323 record shall be filed.

(b) Motion to Vacate. If an interlocutory order is entered on *ex parte* application, the party intending to take an appeal therefrom shall first present, on notice, a motion to the trial court to vacate the order. An appeal may be taken if the motion is denied, or if the court does not act thereon within 7 days after its presentation. The 30 days allowed for taking an appeal and filing the Rule 328 supporting record begins to run from the day the motion is denied or from the last day for action thereon.

(c) Time for Briefs. Unless the Appellate Court orders a different schedule or orders that no briefs be filed, the schedule for filing briefs shall be as follows: The brief of appellant shall be filed in the Appellate Court, with proof of service, within 7 days from the filing of the Rule 328 supporting record. Within 7 days from the date appellant's brief is filed, the appellee shall file his brief and any supplemental Rule 328 supporting record in the Appellate Court with proof of service. Within 7 days from the date appellee's brief is filed, appellant may serve and file a reply brief. The briefs shall otherwise conform to the requirements of Rules 341 through 344.

(d) Appeals of Temporary Restraining Orders; Time; Memoranda.

(1) *Petition; Service; Record.* Unless another form is ordered by the Appellate Court, review of the granting or denial of a temporary restraining order or an order modifying, dissolving, or refusing to dissolve or modify a temporary restraining order as authorized in paragraph (a) shall be by petition filed in the Appellate Court, but notice of interlocutory appeal as provided in paragraph (a) shall also be filed in the circuit court, within the same time for filing the petition. The petition shall state the relief requested and the grounds for the relief requested, and shall be filed in the Appellate Court, with proof of personal or e-mail service as provided in Rule 11, within two days of the entry or denial of the order from which review is being sought. An appropriate supporting record shall accompany the petition, which shall include the notice of interlocutory appeal, the temporary restraining order or the proposed temporary restraining order, the complaint, the motion requesting the granting of the temporary restraining order, and any supporting documents or matters of record necessary to the petition. The supporting record must be authenticated by the certificate of the clerk of the trial court or by the affidavit of the attorney or party filing it.

(2) *Legal Memoranda.* The petitioner may file a memorandum supporting the petition which shall not exceed 15 pages or, alternatively, 4,500 words and which must also be filed within two days of the entry of the order that is being appealed under paragraph 1 of this section. The respondent shall file, with proof of personal or e-mail service as provided in Rule 11, any responding memorandum within two days following the filing of the petition, supporting record, and any memorandum which must be served upon the respondent personally or by e-mail. The respondent's memorandum may not exceed 15 pages or,

alternatively, 4,500 words and must also be served upon the petitioner personally or by e-mail.

(3) *Replies; Extensions of Time.* Except by order of court, no replies will be allowed and no extension of time will be allowed.

(4) *Time for Decision; Oral Argument.* After the petitioner has filed the petition, supporting record, and any memorandum and the time for filing any responding memorandum has expired, the Appellate Court shall consider and decide the petition within five business days thereafter. Oral argument on the petition will not be heard.

(5) *Variations by Order of Court.* The Appellate Court may, if it deems it appropriate, order a different schedule, or order that no memoranda be filed, or order the other materials need not be filed.

Amended October 21, 1969, effective January 1, 1970; amended July 30, 1979, effective October 15, 1979; amended May 28, 1982, effective July 1, 1982; amended November 21, 1988, effective January 1, 1989; amended June 19, 1989, effective August 1, 1989; amended December 17, 1993, effective February 1, 1994; amended December 1, 1995, effective immediately; amended July 6, 2000, effective immediately; amended November 27, 2002, effective January 1, 2003; amendment of November 27, 2002, vacated December 31, 2002; amended March 20, 2009, effective immediately; amended February 26, 2010, effective immediately; amended Dec. 9, 2015, eff. Jan. 1, 2016; amended Oct. 6, 2016, eff. Nov. 1, 2016; amended June 22, 2017, eff. July 1, 2017; amended Sept. 15, 2017, eff. Nov. 1, 2017.

Committee Comments
(Revised 1979)

This rule replaced former Rule 31, effective January 1, 1964, and in effect until January 1, 1967. That rule supplanted former section 78 of the Civil Practice Act, repealed effective January 1, 1964 (Laws of 1963, p. 2691, §1), section 7 of the 1964 judicial article (now section 6 of new article VI) having given the Supreme Court power to provide by rule for interlocutory appeals to the Appellate Court. The word "order" is substituted for "order or decree" throughout the rule, without change of meaning. (See Rule 2.)

Stays pending appeal are governed by Rule 305.

Paragraph (a)

Paragraph (a) provides for a designation–"Notice of Interlocutory Appeal"–on the notice of appeal, and continues the theory that the filing of the notice of appeal and not the filing of a bond perfects the appeal. The paragraph was amended in 1969 by adding items (5) through (7) to the list of appealable interlocutory orders. The amendment carries out the policy of covering all interlocutory appeals in the Supreme Court rules, as contemplated by section 7 of the 1964 judicial article (now section 6 of new article VI). The procedure provided in the Eminent Domain Act for appeal and stay in quick-take cases (Ill. Rev. Stat. 1967, ch. 47, par. 2.2(b)) is incorporated by reference in item (7), in lieu of detailed coverage of these matters in the rules, because of the peculiar problems in an appeal of this kind and its relationship to the condemnation proceeding as a whole.

Paragraph (a) was amended in 1979 to reflect changes in Rule 321 that eliminated the requirement that a praecipe for record be filed.

Paragraph (b)

Paragraph (b) is the same as former Rule 31(2) with slight verbal changes.

Paragraph (c)

Paragraph (c), establishing the briefing schedule as 7 days for appellant, 7 days for appellee, and 7 days for the reply brief, all dating from the filing of the record and the filing of the preceding brief (instead of from the due dates thereof), replaces the schedules in Rule 5 of the First District Appellate Court and Rule 23 of the other appellate districts (former Uniform Appellate Court Rule 23). The paragraph gives the court the right to order a different briefing schedule, or to dispense with briefs altogether. Until 1979, it was generally required that an abstract of the record or a reproduction of excerpts from the record be filed in the reviewing court in addition to the record and the briefs. Paragraph (d) provided that where the appellant elected to file excerpts from the record instead of an abstract the excerpts had to be filed within 7 days after the filing of the reply brief. The rules were amended in 1979 to provide that unless the Appellate Court orders that an abstract be prepared and filed, all cases will be heard on the original record and the briefs, the appellant's brief to include an appendix described in Rule 342. Appropriate changes were made in Rule 307(c) to reflect this change in the practice.

Amended Rule 315

Rule 315. Leave to Appeal From the Appellate Court to the Supreme Court

(a) Petition for Leave to Appeal; Grounds. Except as provided below for appeals from the Illinois Workers' Compensation Commission division of the Appellate Court, a petition for leave to appeal to the Supreme Court from the Appellate Court may be filed by any party, including the State, in any case not appealable from the Appellate Court as a matter of right. Whether such a petition will be granted is a matter of sound judicial discretion. The following, while neither controlling nor fully measuring the court's discretion, indicate the character of reasons which will be considered: the general importance of the question presented; the existence of a conflict between the decision sought to be reviewed and a decision of the Supreme Court, or of another division of the Appellate Court; the need for the exercise of the Supreme Court's supervisory authority; and the final or interlocutory character of the judgment sought to be reviewed.

No petition for leave to appeal from a judgment of the five-judge panel of the Appellate Court designated to hear and decide cases involving review of Illinois Workers' Compensation Commission orders shall be filed, unless two or more judges of that panel join in a statement that the case in question involves a substantial question which warrants consideration by the Supreme Court. A motion asking that such a statement be filed may be filed as a prayer for alternative relief in a petition for rehearing, but must, in any event, be filed within the time allowed for filing a petition for rehearing.

(b) Time.

(1) Published Decisions. Unless a timely petition for rehearing is filed in the Appellate

Court, a party seeking leave to appeal must file the petition for leave in the Supreme Court within 35 days after the entry of such judgment. If a timely petition for rehearing is filed, the party seeking review must file the petition for leave to appeal within 35 days after the entry of the order denying the petition for rehearing. If a petition is granted, the petition for leave to appeal must be filed within 35 days of the entry of the judgment on rehearing. The Supreme Court, or a judge thereof, on motion, may extend the time for petitioning for leave to appeal, but such motions are not favored and will be allowed only in the most extreme and compelling circumstances.

(2) Rule 23 Orders. The time for filing a petition for leave to appeal a Rule 23 order shall be the same as for published opinions, except that if the party who prevailed on an issue in the ~~a~~Appellate ~~e~~Court timely files a motion to publish a Rule 23 order pursuant to Rule 23(f), and if the motion is granted, a nonmoving party may file a petition for leave to appeal within 35 days after the filing of the published opinion. The filing of a Rule 23(f) publication motion shall not invalidate a previously filed petition for leave to appeal.

(c) Contents. The petition for leave to appeal shall contain, in the following order:

(1) a prayer for leave to appeal;

(2) a statement of the date upon which the judgment was entered; whether a petition for rehearing was filed and, if so, the date of the denial of the petition or the date of the judgment on rehearing;

(3) a statement of the points relied upon in asking the Supreme Court to review the judgment of the Appellate Court;

(4) a fair and accurate statement of the facts, which shall contain the facts necessary to an understanding of the case, without argument or comment, with appropriate references to the pages of the record on appeal, in the format as set forth in the Standards and Requirements for Electronic Filing the Record on Appeal.

(5) a short argument (including appropriate authorities) stating why review by the Supreme Court is warranted and why the decision of the Appellate Court should be reversed or modified; and

(6) an appendix which shall include the opinion or order of the Appellate Court and any documents from the record which are deemed necessary to the consideration of the petition.

(d) Format; Service; Filing. The petition shall otherwise be prepared, served, and filed in accordance with the requirements for briefs as set forth in Rules 341 through 343, except that it shall be limited to 20 pages~~,~~ or, alternatively, ~~7,000~~ 6,000 words, excluding only the appendix.

(e) Records. The clerk of the Supreme Court shall transmit notice of the filing of the petition to the clerk of the Appellate Court, who, upon request of the clerk of the Supreme Court made either before or after the petition is acted upon, shall transmit to the clerk of the Supreme Court the record on appeal that was filed in the Appellate Court and the certified Appellate Court record.

(f) Answer. The respondent need not but may file an answer, with proof of service, within 21 days after the expiration of the time for the filing of the petition, or within such further time as the Supreme Court or a judge thereof may grant within such 21-day period. An answer shall set forth reasons why the petition should not be granted, and shall conform, to the extent

appropriate, to the form specified in this rule for the petition, omitting the items (1), (2), (3), (4) and (6) set forth in paragraph (c) except to the extent that correction of the petition is considered necessary. The answer shall be prepared, served, and filed in accordance with the requirements for briefs except that it shall be limited to 20 pages, or, alternatively, ~~7,000~~ 6,000 words, excluding only the appendix. No reply to the answer shall be filed. If the respondent does not file an answer or otherwise appear but wants notice of the disposition of the petition for leave to appeal, a request for such notice should be submitted to the clerk in Springfield.

(g) Transmittal of Trial Court Record if Petition Is Granted. If the petition is granted, upon notice from the clerk of the Supreme Court the clerk of the Appellate Court shall transmit to the Supreme Court the record on appeal that was filed in the Appellate Court and the Appellate Court record, unless already filed in the Supreme Court.

(h) Briefs. If leave to appeal is allowed, the appellant may allow his or her petition for leave to appeal to stand as the brief of appellant, or may file a brief. Within 14 days after the date on which leave to appeal was allowed, appellant shall serve on all counsel of record a notice of election to allow the petition for leave to appeal to stand as the brief of appellant, or to file an additional brief, and within the same time shall file the notice with the clerk of the Supreme Court. If appellant elects to allow the petition for leave to appeal to stand as his or her brief, appellant shall file with the notice a complete table of contents, with page references, of the record on appeal and a statement of the applicable standard of review for each issue, with citation to authority, in accordance with Rule 341(h)(3). If appellant elects to file an additional brief, it shall be filed within 35 days from the date on which leave to appeal was allowed. Motions to extend the time for filing an additional brief are not favored and will be allowed only in the most extreme and compelling circumstances.

The appellee may allow his or her answer to the petition for leave to appeal to stand as the brief of appellee, or may file a brief. If the appellant has elected to allow the petition for leave to appeal to stand as the brief of appellant, within 14 days after the due date of appellant's notice the appellee shall serve on all counsel of record a notice of election to let the answer stand as the brief of appellee, or to file a brief, and within the same time shall file the notice with the clerk of the Supreme Court. If the appellee elects to file a brief, such brief shall be filed within 35 days of the due date of appellant's notice of election to let the petition for leave to appeal stand as the brief of appellant.

If the appellant has elected to file an additional brief, within 14 days after the due date of appellant's brief the appellee shall serve on all counsel of record a notice of election to let his or her answer stand as the brief of appellee, or to file an additional brief, and within the same time shall file a copy of the notice with the clerk of the Supreme Court. If appellee elects to file an additional brief it shall be filed within 35 days of the due date of appellant's brief.

If an appellee files a brief, the appellant may file a reply brief within 14 days of the due date of appellee's brief. If the brief of appellee contains arguments in support of cross-relief, the appellant's arguments in opposition shall be included in the reply brief and the appellee may file a reply brief confined strictly to those arguments within 14 days of the due date of appellant's reply brief. If the brief of the appellee contains arguments in support of cross-relief, the cover of the brief shall be captioned: "Brief of Appellee. Cross-Relief Requested."

Briefs, pleadings and other documents filed with the Supreme Court in cases covered by this

rule shall, to the extent appropriate, conform to Rules 341 through 343.

In cases involving more than one appellant or appellee, including cases consolidated for purposes of the appeal, any number of either may join in a single brief, and any appellant or appellee may adopt by reference any part of the brief of another. Parties may similarly join in reply briefs.

(i) Child custody cases. A petition for leave to appeal in a child custody or allocation of parental responsibilities or relocation of emancipated minors case, as defined in Rule 311, and any notice, motion, or pleading related thereto, shall include the following statement in bold type on the top of the front page: **THIS APPEAL INVOLVES A MATTER SUBJECT TO EXPEDITED DISPOSITION UNDER RULE 311(a).**

(j) Delinquent minor cases. A petition for leave to appeal in a delinquent minor case, as provided for in Rule 660A, and any notice, motion, or pleadings related thereto, shall include the following statement in bold type on the top of the front page: **THIS APPEAL INVOLVES A DELINQUENT MINOR PROCEEDING UNDER THE JUVENILE COURT ACT.**

(k) Oral Argument. Oral argument may be requested as provided in Rule 352(a).

Amended effective November 30, 1972; amended effective September 1, 1974; amended October 1, 1976, effective November 15, 1976; amended September 29, 1978, effective November 1, 1978; amended July 30, 1979, effective October 15, 1979; amended February 19, 1982, effective April 1, 1982; amended May 28, 1982, effective July 1, 1982; amended February 1, 1984, effective February 1, 1984, with Justice Moran dissenting (see *Yellow Cab Co. v. Jones* (1985), 108 Ill. 2d 330, 342); amended April 27, 1984, effective July 1, 1984; amended February 21, 1986, effective August 1, 1986; amended February 27, 1987, effective April 1, 1987; amended April 7, 1993, effective June 1, 1993; amended December 17, 1993, effective February 1, 1994; amended September 23, 1996, effective immediately; amended September 22, 1997, effective October 1, 1997; amended March 19, 2003, effective May 1, 2003; amended December 5, 2003, effective immediately; amended October 15, 2004, effective January 1, 2005; amended February 10, 2006, effective July 1, 2006; amended May 24, 2006, effective September 1, 2006; amended August 15, 2006, effective immediately; amended October 2, 2006, effective immediately; amended September 25, 2007, effective October 15, 2007; amended February 26, 2010, effective immediately; amended Mar. 15, 2013, eff. May 1, 2013; amended May 23, 2013, eff. July 1, 2013; amended Dec. 11, 2014, eff. Jan. 1, 2015; amended Mar. 15, 2016, eff. immediately; amended June 22, 2017, eff. July 1, 2017; amended June 28, 2017, eff. July 1, 2017; amended Sept. 15, 2017, eff. Nov. 1, 2017.

Committee Comments
(February 10, 2006)

Paragraph (b) is amended to dispense with the requirement of filing an affidavit of intent to file a petition for leave to appeal or a certificate of intent to file a petition for leave to appeal. This amendment is consistent with the public policy of this state as evinced by the Code of Civil Procedure, which favors resolution on the merits: "This Act shall be liberally construed, to the end that controversies may be speedily and finally determined according to the substantive rights of the parties." 735 ILCS 5/1-106.

The amendment also addresses the concerns addressed in *A.J. Maggio Co. v. Willis*, 197 Ill. 2d 397 (2001), *Roth v. Illinois Farmers Insurance Co.*, 202 Ill. 2d 490 (2002), and *Wauconda*

Fire Prevention District v. Stonewall Orchards, LLP, 214 Ill. 2d 417 (2005), all of which dealt with the rather unclear requirements of Rule 315, which had been amended in 1993 to require the filing of an affidavit of intent within 21 days in order to have 35 days in which to file a petition for leave to appeal.

Paragraph (b) is further amended to separate the provision on the time for filing a petition for leave to appeal, which remains in paragraph (b), from the provision on the content of the petition, which becomes a new paragraph (c). The subsequent paragraphs are relettered accordingly.

Paragraph (b) is also amended to allow a party that may not have sought Supreme Court review of an adverse disposition under Rule 23(b) or (c) the opportunity to seek review of that disposition after the Appellate Court grants a motion to publish it.

Amended Rule 341

Rule 341. Briefs

(a) Form of Briefs. Briefs shall be submitted in clear, black text on white pages, each measuring 8½ by 11 inches. The text must be double-spaced; however, headings may be single-spaced. Margins must be at least 1½ inch on the left side and 1 inch on the other three sides. Each page shall be numbered within the bottom margin. Quotations of two or more lines in length may be single-spaced; however, lengthy quotations are not favored and should be included only where they will aid the court's comprehension of the argument. Footnotes are discouraged but, if used, may be single-spaced.

Typeface must be 12-point or larger throughout the document, including quoted material and any footnotes. Condensed type is prohibited.

(b) Length of Briefs.

(1) Length Limitation. The brief of appellant and brief of appellee shall each be limited to 50 pages, and the reply brief to 20 pages. Alternatively, the brief of appellant and brief of appellee shall each be limited to no more than 15,000 words~~,~~ and the reply brief to ~~7,000~~ 6,000 words. This limitation excludes pages and words contained in the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a). Cross-appellants and cross-appellees shall each be allowed an additional 30 pages~~,~~ or, alternatively, ~~8,400~~ 9,000 words, and the cross-appellant's reply brief shall not exceed 20 pages~~,~~ or, alternatively, ~~7,000~~ 6,000 words.

(2) Motions. Motions to file a brief in excess of the length limitation of this rule are not favored. Such a motion shall be filed not less than 10 days before the brief is due or not less than 5 days before a reply brief is due and shall state the excess number of pages or words requested and the specific grounds establishing the necessity for excess pages or words. The motion shall be supported by affidavit or verification by certification under Section 1-109 of the Code of Civil Procedure of the attorney or self-represented litigant. Any affidavit shall be sworn to before a person who has authority under the law to administer oaths.

(c) Certificate of Compliance. The attorney or self-represented litigant shall submit with the brief his or her signed certification that the brief complies with the form and length requirements

of paragraphs (a) and (b) of this rule, as follows:

> I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is ___ pages or words.

(d)Covers. The cover of the brief shall contain: the number of the case in the reviewing court and the name of that court; the name of the court or administrative agency from which the case was brought; the name of the case as it appeared in the lower tribunal, except that the status of each party in the reviewing court shall also be indicated (*e.g.*, plaintiff-appellant); the name of the trial judge entering the judgment to be reviewed; and the individual names and addresses of the attorneys and their law firm (or of the party if the party has no attorney) filing the brief shall also be stated.

The colors of the covers of the documents, whether electronic or paper, shall be: appellant's brief or petition, white; appellee's brief or answer, light blue; appellant's reply brief, light yellow; reply brief of appellee, light red; petition for rehearing, light green; answer to petition for rehearing, tan; and reply on rehearing, orange. If a separate appendix is filed, the cover shall be the same color as that of the brief which it accompanies.

(e) Duplicate Copies and Proof of Service. Electronically filed briefs shall be considered the official original. A court of review may, in its electronic filing procedures, require duplicate paper copies bearing the court's electronic file stamp. Such copies shall be printed one-sided and securely bound on the left side in a manner that does not obstruct the text. Such copies shall be received by the clerk within five days of the electronic notification generated upon acceptance of an electronically filed document.

The brief shall be served upon each other party to the appeal represented by separate counsel. Proof of service shall be filed with all briefs.

(f) References to Parties. In the brief the parties shall be referred to as in the trial court, *e.g.*, plaintiff and defendant, omitting the words appellant and appellee and petitioner and respondent, or by using actual names or descriptive terms such as "the employee," "the injured person," "the taxpayer," "the railroad," etc.

In all appeals involving juveniles filed from proceedings under the Juvenile Court Act or the Adoption Act, and in all appeals under the Mental Health and Developmental Disabilities Code, the Mental Health and Developmental Disabilities Confidentiality Act, or from actions for collection of fees for mental health services, the respective juvenile or recipient of mental-health services shall be identified by first name and last initial or by initials only.

The preferred method is the first name and last initial. The alternative method of initials only is to be used when, due to an unusual first name or spelling, the preferred method would create a substantial risk of revealing the individual's identity. The name of the involved juvenile or recipient of services shall not appear in the brief.

(g) Citations. Citations shall be made as provided in Rule 6.

(h) Appellant's Brief. The appellant's brief shall contain the following parts in the order named:

(1) A summary statement, entitled "Points and Authorities," of the points argued and the authorities cited in the Argument. This shall consist of the headings of the points and subpoints as in the Argument, with the citation under each heading of the authorities relied upon or distinguished, and a reference to the page of the brief on which each heading and each authority appear. Cases shall be cited as near as may be in the order of their importance.

(2) An introductory paragraph stating (i) the nature of the action and of the judgment appealed from and whether the judgment is based upon the verdict of a jury, and (ii) whether any question is raised on the pleadings and, if so, the nature of the question.

Illustration:

"This action was brought to recover damages occasioned by the alleged negligence of the defendant in driving his automobile. The jury rendered a verdict for the plaintiff upon which the court entered the judgment from which this appeal is taken. No questions are raised on the pleadings."

(3) A statement of the issue or issues presented for review, without detail or citation of authorities.

Illustration:

Issue Presented for Review:

"Whether the plaintiff was guilty of contributory negligence as a matter of law."

[or]

"Whether the trial court ruled correctly on certain objections to evidence."

[or]

"Whether the jury was improperly instructed."

The appellant must include a concise statement of the applicable standard of review for each issue, with citation to authority, either in the discussion of the issue in the argument or under a separate heading placed before the discussion in the argument.

(4) A statement of jurisdiction:

(i) In a case appealed to the Supreme Court directly from the trial court or as a matter of right from the Appellate Court, a brief statement under the heading "Jurisdiction" of the jurisdictional grounds for the appeal to the Supreme Court.

(ii) In a case appealed to the Appellate Court, a brief, but precise statement or explanation under the heading "Jurisdiction" of the basis for appeal including the supreme court rule or other law which confers jurisdiction upon the reviewing court; the facts of the case which bring it within this rule or other law; and the date that the order being appealed was entered and any other facts which are necessary to demonstrate that the appeal is timely. In appeals from a judgment as to all the claims and all the parties, the statement shall demonstrate the disposition of all claims and all parties. All facts

recited in this statement shall be supported by page references to the record on appeal.

(5) In a case involving the construction or validity of a statute, constitutional provision, treaty, ordinance, or regulation, the pertinent parts of the provision verbatim, with a citation of the place where it may be found, all under an appropriate heading, such as "Statutes Involved." If the provision involved is lengthy, its citation alone will suffice at this point, and its pertinent text shall be set forth in an appendix.

(6) Statement of Facts, which shall contain the facts necessary to an understanding of the case, stated accurately and fairly without argument or comment, and with appropriate reference to the pages of the record on appeal in the format as set forth in the Standards and Requirements for Electronic Filing the Record on Appeal.

(7) Argument, which shall contain the contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on. Evidence shall not be copied at length, but reference shall be made to the pages of the record on appeal where evidence may be found. Citation of numerous authorities in support of the same point is not favored. Points not argued are waived and shall not be raised in the reply brief, in oral argument, or on petition for rehearing.

(8) A short conclusion stating the precise relief sought, followed by the names of counsel as on the cover.

(9) An appendix as required by Rule 342.

(i) Briefs of Appellee and Other Parties. The brief for the appellee and other parties shall conform to the foregoing requirements, except that items (2), (3), (4), (5), (6), and (9) of paragraph (h) of this rule need not be included except to the extent that the presentation by the appellant is deemed unsatisfactory.

(j) Reply Brief. The reply brief, if any, shall be confined strictly to replying to arguments presented in the brief of the appellee and need contain only Argument.

(k) Supplemental Brief on Leave to Appeal. A party allowing a petition for leave to appeal or for appeal as a matter of right or an answer thereto to stand as his or her main brief, may file a supplemental brief, so entitled, containing additional material, and omitting any of the items set forth in paragraph (h) of this rule to the extent that they are adequately covered in the petition or answer. The Points and Authorities in the supplemental brief need relate only to the contents of that brief.

Amended October 21, 1969, effective January 1, 1970; amended July 30, 1979, effective October 15, 1979; amended January 5, 1981, effective February 1, 1981; amended February 19, 1982, effective April 1, 1982; amended May 28, 1982, effective July 1, 1982; amended April 27, 1984, and May 16, 1984, effective July 1, 1984; amended April 10, 1987, effective August 1, 1987; amended May 21, 1987, effective August 1, 1987; amended June 12, 1987, effective immediately; amended May 18, 1988, effective August 1, 1988; amended January 20, 1993, effective immediately; amended December 17, 1993, effective February 1, 1994; amended May 20, 1997, effective July 1, 1997; amended April 11, 2001, effective immediately; amended October 1, 2001, effective immediately; amended May 24, 2006, effective September 1, 2006; amended March 16, 2007, effective immediately; amended June 4, 2008, effective July 1, 2008; amended Feb. 6, 2013, eff. immediately; amended Dec. 9, 2015, eff. Jan. 1, 2016; amended June 22, 2017, eff. July 1, 2017; amended Sept. 15,

2017, eff. Nov. 1, 2017.

Committee Comments
(revised Sept. 15, 2017)

This rule was based upon former Supreme Court Rule 39, effective until January 1, 1967, which in turn was based upon former Uniform (and later Second, Third, Fourth, and Fifth District) Appellate Court Rule 7. There were no major changes.

Paragraph (a)

This paragraph deals with the length of briefs and the use of footnotes. It is derived from the second, third, and fourth sentences of former Rule 39(1). Three printed pages will normally contain approximately as many words as four unprinted pages, so the length limitations are substantially the same for printed and unprinted briefs.

The provision that footnotes are to be in the same size type as required for the text of the brief was deleted. Footnotes are to be used sparingly. Rule 344(b) prescribes 10-point type on 11-point slugs, instead of the 11-point type used in the body. This use of smaller type is conventional in the printing of legal texts, law reviews, the opinions of the Supreme Court of the United States, and other comparable materials. It is believed that the limited use of this slightly smaller type will not impose a burden on the courts.

In 1984 subsection (a) was amended to reduce from 75 to 50 the number of pages allowed to be in a printed brief and from 100 to 75 the number allowed in a brief that is not printed, and excludes from that page limitation those matters which are required by Rule 342(a) to be appended thereto.

Paragraph (b)

This is a revision of former Rule 40(1). The alternative word limitation for determining the maximum length of briefs is based on a uniform assumption of 300 words per page.

Paragraph (c)

This paragraph is derived in part from the first sentence of former Rule 39(1), except that it recognizes certain existing practices not permitted by the former rule if it was read literally. One is the use of the designations "appellant" and "appellee," together with the designation of the party in the trial court, in the title of the case appearing in the caption. The other is that the parties may be referred to by actual names or descriptive terms instead of as plaintiff or defendant, which in many instances is desirable to avoid confusion.

The paragraph was amended effective October 1, 2001, to help protect the identities of recipients of mental health services. The amendment requires that only their first name and last initial, or their initials, appear on documents filed with the Appellate Court or any subsequent court. The requirement covers the parties' briefs, motions, and other similar papers. The amendment does not require deletion of names from the trial record in preparing the record on appeal, nor does it address the means by which the Appellate Court or a subsequent court

maintains the confidentiality of documents appearing in the record.

Paragraph (d)

Effective January 20, 1993, the requirements applicable to citations to cases, textbooks and statutes were placed in Rule 6, which is applicable to all documents filed in court, including briefs.

Paragraph (e)

Paragraph (e) is a substantial revision of portions of former Rule 39.

In 1981 the subparagraphs were restructured to make "Points and Authorities" the first part of the brief, so that it might act as a table of contents.

Subparagraph (1) is based upon the first three sentences of the paragraph designated II of former Rule 39(1). The revised provision specifically relates the Points and Authorities to the Argument. The same headings of the points and subpoints are to be used both here and in the Argument. The former provision that the three cases most relied on shall be cited first under each point was deleted in favor of the last sentence of subparagraph (e), which provides for ranking cases "as near as may be in the order of their importance."

The "introductory paragraph" provided for in subparagraph (2) will ordinarily not be captioned as such in the brief. As the illustration shows, the introductory paragraph is for the purpose of informing the court of the general area of the law in which the case falls, whether there was a jury trial, and whether there is a pleading question and if so what it is. The practice of many lawyers was to include in the statement of "The Nature of the Action" called for by the former rule much more detail than the courts wanted at this place in the brief.

The former requirement that "The Nature of the Case" include a statement of the party's "theory of the case" also produced much more detail than the rule contemplated.

Subparagraph (3) substitutes for the "theory of the case" a statement of "the issue or issues presented for review." Again, the court does not want detail at this point in the brief, as the illustration in the rule following this subparagraph attempts to make clear. The statement of the issue presented for review is not to be an elaborately framed legal question. Its purpose is to give the court a general idea of what the case is about. The court is not ready at this stage to appreciate the details. It should be noticed, for example, that the first alternative illustration of a statement of the issue presented for review does not state what conduct it is that one of the parties contends is contributory negligence as a matter of law. The second alternative does not describe the objections or the evidence to which they relate. The third alternative does not describe the instruction of which the complaint is made.

Subparagraph (4) is in part based upon former Rule 28-1, B. A similar provision appears in the rules of the Supreme Court of the United States. (Rule 40, 1(b).) In cases appealed to the Illinois Supreme Court as of right, it is important that the court be satisfied at the outset that jurisdiction exists. (See the comments to Rule 302.)

Subparagraph (4)(ii) was expanded effective February 1, 1994, to provide more comprehensive examples of what must be included in the statement demonstrating jurisdiction in the Appellate Court.

Subparagraph (5) is a combination of the third paragraph of former Rule 39(1) and paragraph 1(c) of Rule 40 of the rules of the Supreme Court of the United States.

Subparagraph (6) was based upon the paragraph numbered III of former Rule 39(1). The provision with respect to the citation of exhibits was new, as were the illustrations as to the form of the citations to the record. This subparagraph was amended in 1979 to delete reference to the preparation of excerpts from record to reflect the amendment of Rule 342 to eliminate the preparation and duplication of excerpts from the record except for the inclusion of copies of stated documents as an appendix to the brief, and to eliminate the preparation and filing of an abstract except on order of the reviewing court. (See Rule 342(a).) Because the elimination of excerpts and an abstract in most cases lends added importance to the accuracy and fairness with which the facts are stated in the brief, the first sentence of the subparagraph was amended to emphasize this point. A similar amendment was made to Rule 315(b)(4). See the committee comments to Rule 342.

Subparagraph (7) is a revision of the paragraph numbered IV of former Rule 39(1). The description of what the Argument is to contain is somewhat amplified. The provision admonishing against citation of numerous authorities was new. The limitation of the Argument to points made and cases cited in the Points and Authorities is no longer appropriate, since the Points and Authorities is to be derived from the Argument. The former provision that a point "made but not argued may be considered waived" was changed to the affirmative statement of the last sentence of the paragraph that failure to argue results in waiver and, further, that a point that has not been argued shall not be raised subsequently.

Subparagraph (8), requiring a short conclusion stating the precise relief sought, was new. It is customary to include a conclusion in a brief, but the relief sought is not always stated in the conclusion. This provision requires the party to end his brief by telling the court what relief he wants.

Paragraph (f)

The predecessor of this paragraph is the second paragraph following the paragraph numbered IV in former Rule 39(1). The new provision is simplified. The requirement that the appellee's brief state the propositions relied upon to sustain the judgment "as far as practicable, in the same order as the points of appellant" was not brought forward into the present rule. When the nature of the subject matter permits, counsel will normally follow the order established by his opponent in the interest of making his brief as convenient as possible for the court to use. Sometimes effective advocacy requires that a different order be adopted. In the opinion of the committee it is not possible to regulate this matter by rule.

Paragraph (g)

Paragraph (g) is the last paragraph of former Rule 39(1), without change of substance.

Paragraph (h)

Paragraph (h) as it appeared in the revised rules effective January 1, 1967, was deleted in October 1969, as unnecessary in light of paragraph (b) of Rule 343, adopted at that time.

What is now paragraph (h) was paragraph (i) of the revision adopted effective January 1, 1967, and was new at that time, although it provides specifically for a practice that was often employed under the former rules. This paragraph makes clear the extent to which the requirements of Rule 341 apply to a supplemental brief filed in supplement of, rather than in lieu of, a petition for leave to appeal or an answer that party has allowed to stand as his main brief.

Amended Rule 367

Rule 367. Rehearing in Reviewing Court

(a) Time; Length. A petition for rehearing may be filed within 21 days after the filing of the judgment, unless on motion the time is shortened or enlarged by the court or a judge thereof. Motions to extend the time for petitioning for rehearing are not favored and will be allowed only in the most extreme and compelling circumstances. Unless authorized by the court or a judge thereof, the petition shall be limited to 27 pages~~,~~ or, alternatively, ~~8,000~~ 8,100 words, and in either case be supported by a certificate of compliance in accordance with Rule 341(c).

(b) Contents. The petition shall state briefly the points claimed to have been overlooked or misapprehended by the court, with proper reference to the particular portion of the record and brief relied upon, and with authorities and argument, concisely stated in support of the points. Reargument of the case shall not be made in the petition.

(c) Form and Service. For the petition and any answer or reply (see paragraph (d)), the form, cover, and service shall conform to the requirements for briefs (see Rule 341), including the submission of duplicate paper copies, if required.

(d) Answer; Reply; Oral Argument. No answer to a petition for rehearing will be received unless requested by the court or unless the petition is granted. No substantive change in the relief granted or denied by the reviewing court may be made on denial of rehearing unless an answer has been requested. If the petition is granted or if an answer is requested, the opposing party shall have 21 days from the request or the granting of the rehearing to answer the petition, and petitioner shall have 14 days after the due date of the answer within which to file a reply. Unless authorized by the court or a judge thereof, the answer shall be limited to 27 pages~~,~~ or, alternatively, ~~8,000~~ 8,100 words, the reply shall be limited to 10 pages~~,~~ or, alternatively, ~~3,500~~ 3,000 words, and each must be supported by a certificate of compliance in accordance with Rule 341(c). The petition shall be served on opposing counsel and proof of service filed with the clerk. The briefs of the parties, the petition for rehearing, the answer, and the reply shall stand as briefs on the rehearing. Oral argument will be permitted only if ordered by the court on its own motion.

(e) Limitation on Petitions in Appellate Court. When the Appellate Court has acted upon a petition for rehearing and entered judgment on rehearing no further petitions for rehearing shall be filed in that court.

Amended October 1, 1976, effective November 15, 1976; amended February 19, 1982, effective April 1, 1982; amended April 10, 1987; amended June 12, 1987, effective August 1, 1987; amended December 17, 1993, effective February 1, 1994; amended October 14, 2005, effective January 1, 2006; amended May 24, 2006, effective September 1, 2006; amended December 29, 2009, effective immediately; amended Dec. 11, 2014, eff. Jan. 1, 2015; amended Dec. 9, 2015, eff. Jan. 1, 2016; amended Mar. 8, 2016, eff. immediately; amended Aug. 15, 2016, eff. immediately; amended June

22, 2017, eff. July 1, 2017; amended Sept. 15, 2017, eff. Nov. 1, 2017.

Commentary
(December 17, 1993)

The rule is modified to reflect that all types of reviewing court dispositions are subject to the rehearing procedures and time limits (see *Woodson v. Chicago Board of Education* (1993), 154 Ill. 2d 391).

Committee Comments
(Revised February 1982)

This rule is based upon former Rule 44.

Paragraph (a)

As adopted in 1967, paragraph (a) changed the time limit provided in former Rule 44 to 21 days in accordance with the general principle that time periods should be multiples of seven days. The flat prohibition against extensions of time appearing in former Rule 44 was removed in favor of a statement that extensions were not favored. In 1976, the paragraph was amended to strengthen the language disfavoring extensions of time.

(Paragraph (b)

This paragraph is the second and third sentences of former Rule 41(1) without change of substance.

Paragraph (c)

This paragraph was derived from a part of the first sentence of former Rule 44(1) and the third sentence of paragraph (2) of that rule. There was no change of substance until 1982, when the rule was reworded to specifically require that the parties furnish the Reporter of Decisions a copy of any rehearing petition or any motion seeking to change the time for filing a rehearing petition.

Paragraph (d)

This paragraph is based primarily upon former Rule 44(3). It does not change the preexisting practice.

Paragraph (e)

This new provision is applicable only to the Appellate Court. When that court has twice considered a case, once initially and a second time on rehearing, there would seem to be no need for further consideration, especially when there is a higher court from which relief can be sought. See Rules 315(b), 316, and 317 as to the date from which the time for seeking Supreme Court review begins to run.